



General Assembly

February Session, 2002

Amendment

LCO No. 5032

SB0023105032HD0

Offered by:

REP. DOYLE, 28th Dist.

To: Subst. Senate Bill No. 231

File No. 80

Cal. No. 395

***"AN ACT CONCERNING CONSUMER CREDIT AND MONEY
TRANSMITTER LICENSEES."***

-
- 1 In line 97, insert a comma after "registered"
- 2 Strike line 98 in its entirety and insert the following in lieu thereof:
- 3 "an originator, as defined in sections 36a-485 and 36a-510, as amended
- 4 by this act, for more than one person. The registration of an"
- 5 In line 272, strike "prior to" and insert "not earlier than one year
- 6 before" in lieu thereof
- 7 In line 277, strike "prior to" and insert "not earlier than one year
- 8 before" in lieu thereof
- 9 In line 299, strike "within one year or less of" and insert "not earlier
- 10 than one year before" in lieu thereof
- 11 In line 448, after "subsection" insert brackets before and after "(b)"
- 12 and after the closing bracket insert "(c)"

- 13 In line 449, strike the "t" after "lender"
- 14 Strike line 450 in its entirety and insert the following in lieu thereof:
15 "or first mortgage broker required to be licensed"
- 16 In line 451, strike "registered"
- 17 After line 452, insert the following:
- 18 "(b) No originator required to be registered pursuant to sections
19 36a-485 to 36a-498, inclusive, as amended by this act, shall accept
20 payment of any advance fee except an advance fee on behalf of a
21 licensee. Nothing in this subsection shall be construed as prohibiting
22 the licensee from paying an originator all or part of an advance fee,
23 provided such advance fee paid is not refundable under this section."
- 24 In line 453, insert brackets before and after "(b)" and after the closing
25 bracket insert "(c)"
- 26 In line 457, after "subsection" insert brackets before and after "(c)"
27 and after the closing bracket insert "(d)"
- 28 In line 458, insert brackets before and after "(c)" and after the closing
29 bracket insert "(d)"
- 30 In line 458, after "subsection" insert brackets before and after "(b)"
31 and after the closing bracket insert "(c)"
- 32 In line 465, after "licensee" strike "or originator"
- 33 In line 470, after "licensee" strike "or originator"
- 34 In line 477, insert brackets before and after "(d)" and after the closing
35 bracket insert "(e)"
- 36 In line 477, after "subsection" insert brackets before and after "(b)"
37 and after the closing bracket insert "(c)"
- 38 In line 478, after "subsection" insert brackets before and after "(c)"

39 and after the closing bracket insert "(d)"

40 In line 577, insert a comma after "registered"

41 Strike line 578 in its entirety and insert the following in lieu thereof:
42 "an originator, as defined in sections 36a-485 and 36a-510, as amended
43 by this act, for more than one person. The registration of an"

44 In line 733, strike "prior to" and insert "not earlier than one year
45 before" in lieu thereof

46 In line 740, strike "prior to" and insert "not earlier than one year
47 before" in lieu thereof

48 In line 769, strike "prior to" and insert "not earlier than one year
49 before" in lieu thereof

50 In line 938, after "subsection" insert brackets before and after "(d)"
51 and after the closing bracket insert "(e)"

52 In line 939, after "fee" insert the following: "paid or given, directly or
53 indirectly, to a mortgage lender or secondary mortgage broker
54 required to be licensed pursuant to sections 36a-510 to 36a-524,
55 inclusive, as amended by this act,"

56 After line 939, insert the following:

57 "(d) No originator required to be registered pursuant to sections
58 36a-510 to 36a-524, inclusive, as amended by this act, shall accept
59 payment of any advance fee except an advance fee on behalf of a
60 licensee. Nothing in this subsection shall be construed as prohibiting
61 the licensee from paying an originator all or part of an advance fee,
62 provided such advance fee paid is not refundable under this section."

63 In line 940, insert brackets before and after "(d)" and after the closing
64 bracket insert "(e)"

65 In line 944, after "subsection" insert brackets before and after "(e)"
66 and after the closing bracket insert "(f)"

67 In line 945, insert brackets before and after "(e)" and after the closing
68 bracket insert "(f)"

69 In line 945, after "subsection" insert brackets before and after "(d)"
70 and after the closing bracket insert "(e)"

71 In line 964, insert brackets before and after "(f)" and after the closing
72 bracket insert "(g)"

73 In line 964, after "subsection" insert brackets before and after "(d)"
74 and after the closing bracket insert "(e)"

75 In line 965, after "subsection" insert brackets before and after "(e)"
76 and after the closing bracket insert "(f)"

77 In line 1032, strike "prior to" and insert "not earlier than one year
78 before" in lieu thereof

79 In line 1034, insert brackets before and after "said" and after
80 "sections" insert " 36a-535 to 36a-546, inclusive, as amended by this
81 act,"

82 In line 1237, after "filed" strike "within" and insert "not earlier than"

83 In line 1238, after "year" strike "or less of" and insert "before" in lieu
84 thereof

85 After line 1487, insert the following and renumber the remaining
86 sections accordingly:

87 "Sec. 46. Section 36a-800 of the general statutes, as amended by
88 section 3 of public act 01-207, is repealed and the following is
89 substituted in lieu thereof (*Effective July 1, 2002*):

90 As used in sections 36a-800 to 36a-810, inclusive, as amended,
91 unless the context otherwise requires:

92 (1) "Consumer collection agency" means any person engaged in the
93 business of collecting or receiving for payment for others of any

94 account, bill or other indebtedness from a consumer debtor or engaged
95 in the business of collecting, without receiving, property tax from a
96 property tax debtor on behalf of a municipality, including any person
97 who, by any device, subterfuge or pretense, makes a pretended
98 purchase or takes a pretended assignment of accounts from any other
99 person or municipality of such indebtedness for the purpose of
100 evading the provisions of sections 36a-800 to 36a-810, inclusive, as
101 amended. It includes persons who furnish collection systems carrying
102 a name which simulates the name of a consumer collection agency and
103 who supply forms or form letters to be used by the creditor, even
104 though such forms direct the consumer debtor or property tax debtor
105 to make payments directly to the creditor rather than to such fictitious
106 agency. "Consumer collection agency" further includes any person
107 who, in attempting to collect or in collecting such person's own
108 accounts or claims from a consumer debtor, uses a fictitious name or
109 any name other than such person's own name which would indicate to
110 the consumer debtor that a third person is collecting or attempting to
111 collect such account or claim. "Consumer collection agency" does not
112 include (A) an individual employed on the staff of a licensed consumer
113 collection agency, or by a creditor who is exempt from licensing, when
114 attempting to collect on behalf of such consumer collection agency, (B)
115 persons not primarily engaged in the collection of debts from
116 consumer debtors who receive funds in escrow for subsequent
117 distribution to others, including, but not limited to, real estate brokers
118 and lenders holding funds of borrowers for payment of taxes or
119 insurance, (C) any public officer or a person acting under the order of
120 any court, (D) any member of the bar of this state, and (E) a person
121 who services loans or accounts for the owners thereof when the
122 arrangement includes, in addition to requesting payment from
123 delinquent consumer debtors, the providing of other services such as
124 receipt of payment, accounting, record-keeping, data processing
125 services and remitting, for loans or accounts which are current as well
126 as those which are delinquent. Any person not included in the
127 definition contained in this subsection is, for purposes of sections 36a-
128 645 to 36a-647, inclusive, a "creditor", as defined in subdivision (3) of

129 section 36a-645;

130 (2) "Consumer debtor" means any natural person, not an
131 organization, who has incurred indebtedness or owes a debt for
132 personal, family or household purposes, including current or past due
133 child support, or who has incurred indebtedness or owes a debt to a
134 municipality due to a levy by such municipality of a personal property
135 tax;

136 (3) "Creditor" means a person, including a municipality, who
137 retains, hires, or engages the services of a consumer collection agency;

138 (4) "Municipality" means any town, city or borough, consolidated
139 town and city, consolidated town and borough, district as defined in
140 section 7-324 or municipal special services district established under
141 chapter 105a;

142 (5) "Organization" means a corporation, partnership, association,
143 trust or any other legal entity or an individual operating under a trade
144 name or a name having appended to it a commercial, occupational or
145 professional designation;

146 (6) "Property tax" has the meaning given to the term in section 7-560;

147 (7) "Property tax debtor" means any natural person or organization
148 who has incurred indebtedness or owes a debt to a municipality due to
149 a levy by such municipality of a property tax."

150 In line 1497, after "debtors" insert "or property tax debtors"

151 In line 1499, after "debtors" insert "or property tax debtors"

152 In line 1512, before "application" insert "initial" and after "filed"
153 strike "prior to" and insert "not earlier than one year before" in lieu
154 thereof

155 In line 1590, delete "or" and insert "¿" in lieu thereof, and after
156 "debtor" insert "or property tax debtor"

157 After line 1626, insert the following and renumber the remaining
158 section accordingly:

159 "Sec. 50. Section 36a-805 of the general statutes, as amended by
160 section 6 of public act 01-207, is repealed and the following is
161 substituted in lieu thereof (*Effective July 1, 2002*):

162 (a) No consumer collection agency shall: (1) Furnish legal advice or
163 perform legal services or represent that it is competent to do so, or
164 institute judicial proceedings on behalf of others; (2) communicate with
165 consumer debtors or property tax debtors in the name of an attorney
166 or upon the stationery of an attorney, or prepare any forms or
167 instruments which only attorneys are authorized to prepare; (3)
168 purchase or receive assignments of claims for the purpose of collection
169 or institute suit thereon in any court; (4) assume authority on behalf of
170 a creditor to employ or terminate the services of an attorney unless
171 such creditor has authorized such agency in writing to act as such
172 creditor's agent in the selection of an attorney to collect the creditor's
173 accounts; (5) demand or obtain in any manner a share of the proper
174 compensation for services performed by an attorney in collecting a
175 claim, whether or not such agency has previously attempted collection
176 thereof; (6) solicit claims for collection under an ambiguous or
177 deceptive contract; (7) refuse to return any claim or claims upon
178 written request of the creditor, claimant or forwarder, which claims are
179 not in the process of collection after the tender of such amounts, if any,
180 as may be due and owing to the agency; (8) advertise or threaten to
181 advertise for sale any claim as a means of forcing payment thereof,
182 unless such agency is acting as the assignee for the benefit of creditors;
183 (9) refuse or fail to account for and remit to its clients all money
184 collected which is not in dispute within sixty days from the last day of
185 the month in which said money is collected; (10) refuse or intentionally
186 fail to return to the creditor all valuable papers deposited with a claim
187 when such claim is returned; (11) refuse or fail to furnish at intervals of
188 not less than ninety days, upon the written request of the creditor,
189 claimant or forwarder, a written report upon claims received from
190 such creditor, claimant or forwarder; (12) commingle money collected

191 for a creditor, claimant or forwarder with its own funds or use any
192 part of a creditor's, claimant's or forwarder's money in the conduct of
193 its business; (13) add any charge or fee to the amount of any claim
194 which it receives for collection or knowingly accept for collection any
195 claim to which any charge or fee has already been added to the
196 amount of the claim unless the consumer debtor is legally liable
197 therefor, in which case, the collection charge or [collection] fee may not
198 be in excess of fifteen per cent of the amount actually collected on the
199 debt; (14) use or attempt to use or make reference to the term "bonded
200 by the state of Connecticut", "bonded" or "bonded collection agency" or
201 any combination of such terms or words, except that the word
202 "bonded" may be used on the stationery of any such agency in type not
203 larger than twelve-point; or (15) engage in any activities prohibited by
204 sections 36a-800 to 36a-810, inclusive, as amended.

205 (b) No consumer collection agency shall impose a charge or fee for
206 any child support payments collected through the efforts of a
207 governmental agency. If the imposition of a charge or fee is permitted
208 under section 10 of [this act] public act 01-207, no consumer collection
209 agency shall impose a charge or fee for the collection of any child
210 support overdue at the time of the contract in excess of twenty-five per
211 cent of overdue support actually collected.

212 (c) No consumer collection agency shall receive any property tax on
213 behalf of a creditor that is a municipality."